

111TH CONGRESS
1ST SESSION

H. R. 2187

To direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2009

Mr. CHANDLER (for himself, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. LOEBACK, Mr. TIERNEY, Mr. COURTNEY, Mr. HARE, Mr. HOLT, Mr. ANDREWS, Mr. GRIJALVA, Mr. PIERLUISI, Ms. WOOLSEY, Mr. WU, Mr. TONKO, Mr. POLIS of Colorado, Ms. HIRONO, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “21st Century Green High-Performing Public School Fa-
6 cilities Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—GRANTS FOR MODERNIZATION, RENOVATION, OR
 REPAIR OF PUBLIC SCHOOL FACILITIES

Sec. 101. Purpose.
 Sec. 102. Allocation of funds.
 Sec. 103. Allowable uses of funds.

TITLE II—SUPPLEMENTAL GRANTS FOR LOUISIANA, MISSISSIPPI,
 AND ALABAMA

Sec. 201. Purpose.
 Sec. 202. Allocation to local educational agencies.
 Sec. 203. Allowable uses of funds.

TITLE III—GENERAL PROVISIONS

Sec. 301. Impermissible uses of funds.
 Sec. 302. Supplement, not supplant.
 Sec. 303. Prohibition regarding State aid.
 Sec. 304. Maintenance of effort.
 Sec. 305. Special rule on contracting.
 Sec. 306. Use of American iron, steel, and manufactured goods.
 Sec. 307. Labor standards.
 Sec. 308. Charter schools.
 Sec. 309. Green schools.
 Sec. 310. Reporting.
 Sec. 311. Authorization of appropriations.
 Sec. 312. Special rules.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) The term “Bureau-funded school” has the
 6 meaning given to such term in section 1141 of the
 7 Education Amendments of 1978 (25 U.S.C. 2021).

8 (2) The term “charter school” has the meaning
 9 given such term in section 5210 of the Elementary
 10 and Secondary Education Act of 1965 (20 U.S.C.
 11 7221).

1 (3) The term “CHPS Criteria” means the
2 green building rating program developed by the Col-
3 laborative for High Performance Schools.

4 (4) The term “Energy Star” means the Energy
5 Star program of the United States Department of
6 Energy and the United States Environmental Pro-
7 tection Agency.

8 (5) The term “Green Globes” means the Green
9 Building Initiative environmental design and rating
10 system referred to as Green Globes.

11 (6) The term “LEED Green Building Rating
12 System” means the United States Green Building
13 Council Leadership in Energy and Environmental
14 Design green building rating standard referred to as
15 LEED Green Building Rating System.

16 (7) The term “local educational agency”—

17 (A) has the meaning given to that term in
18 section 9101 of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C. 7801), and
20 shall also include the Recovery School District
21 of Louisiana and the New Orleans Public
22 Schools; and

23 (B) includes any public charter school that
24 constitutes a local educational agency under
25 State law.

1 (8) The term “outlying area”—

2 (A) means the United States Virgin Is-
3 lands, Guam, American Samoa, and the Com-
4 monwealth of the Northern Mariana Islands;
5 and

6 (B) includes the freely associated states of
7 the Republic of the Marshall Islands, the Fed-
8 erated States of Micronesia, and the Republic
9 of Palau.

10 (9) The term “public school facilities” means
11 an existing public school facility, including a public
12 charter school facility, or another existing facility
13 planned for adaptive reuse as such a school facility.

14 (10) The term “State” means each of the 50
15 States, the District of Columbia, and the Common-
16 wealth of Puerto Rico.

17 **TITLE I—GRANTS FOR MOD-**
18 **ERNIZATION, RENOVATION,**
19 **OR REPAIR OF PUBLIC**
20 **SCHOOL FACILITIES**

21 **SEC. 101. PURPOSE.**

22 Grants under this title shall be for the purpose of
23 modernizing, renovating, or repairing public school facili-
24 ties, based on their need for such improvements, to be

1 safe, healthy, high-performing, and up-to-date techno-
2 logically.

3 **SEC. 102. ALLOCATION OF FUNDS.**

4 (a) RESERVATION.—

5 (1) IN GENERAL.—From the amount appro-
6 priated to carry out this title for each fiscal year
7 pursuant to section 311(a), the Secretary shall re-
8 serve 1 percent of such amount, consistent with the
9 purpose described in section 101—

10 (A) to provide assistance to the outlying
11 areas; and

12 (B) for payments to the Secretary of the
13 Interior to provide assistance to Bureau-funded
14 schools.

15 (2) USE OF RESERVED FUNDS.—In each fiscal
16 year, the amount reserved under paragraph (1) shall
17 be divided between the uses described in subpara-
18 graphs (A) and (B) of such paragraph in the same
19 proportion as the amount reserved under section
20 1121(a) of the Elementary and Secondary Edu-
21 cation Act of 1965 (20 U.S.C. 6331(a)) is divided
22 between the uses described in paragraphs (1) and
23 (2) of such section 1121(a) in such fiscal year.

24 (b) ALLOCATION TO STATES.—

1 (1) STATE-BY-STATE ALLOCATION.—Of the
2 amount appropriated to carry out this title for each
3 fiscal year pursuant to section 311(a), and not re-
4 served under subsection (a), each State shall be allo-
5 cated an amount in proportion to the amount re-
6 ceived by all local educational agencies in the State
7 under part A of title I of the Elementary and Sec-
8 ondary Education Act of 1965 (20 U.S.C. 6311 et
9 seq.) for the previous fiscal year relative to the total
10 amount received by all local educational agencies in
11 every State under such part for such fiscal year.

12 (2) STATE ADMINISTRATION.—A State may re-
13 serve up to 1 percent of its allocation under para-
14 graph (1) to carry out its responsibilities under this
15 title, which include—

16 (A) providing technical assistance to local
17 educational agencies;

18 (B) developing a database that includes an
19 inventory of public school facilities in the State,
20 including for each, its design, condition, mod-
21 ernization, renovation and repair needs, usage,
22 utilization, energy use, and carbon footprint;
23 and

24 (C) developing a school energy efficiency
25 quality plan.

1 (3) GRANTS TO LOCAL EDUCATIONAL AGEN-
2 CIES.—From the amount allocated to a State under
3 paragraph (1), each local educational agency in the
4 State that meets the requirements of section
5 1112(a) of the Elementary and Secondary Edu-
6 cation Act of 1965 (20 U.S.C. 6312(a)) shall receive
7 an amount in proportion to the amount received by
8 such local educational agency under part A of title
9 I of that Act (20 U.S.C. 6311 et seq.) for the pre-
10 vious fiscal year relative to the total amount received
11 by all local educational agencies in the State under
12 such part for such fiscal year, except that no local
13 educational agency that received funds under part A
14 of title I of that Act for such fiscal year shall receive
15 a grant of less than \$5,000 in any fiscal year under
16 this title.

17 (4) SPECIAL RULE.—Section 1122(c)(3) of the
18 Elementary and Secondary Education Act of 1965
19 (20 U.S.C. 6332(c)(3)) shall not apply to paragraph
20 (1) or (3).

21 (c) SPECIAL RULES.—

22 (1) DISTRIBUTIONS BY SECRETARY.—The Sec-
23 retary shall make and distribute the reservations
24 and allocations described in subsections (a) and (b)

1 not later than 30 days after an appropriation of
2 funds for this title is made.

3 (2) DISTRIBUTIONS BY STATES.—A State shall
4 make and distribute the allocations described in sub-
5 section (b)(3) within 30 days of receiving such funds
6 from the Secretary.

7 **SEC. 103. ALLOWABLE USES OF FUNDS.**

8 A local educational agency receiving a grant under
9 this title shall use the grant for modernization, renovation,
10 or repair of public school facilities, including, where appli-
11 cable, early learning facilities—

12 (1) repairing, replacing, or installing roofs, in-
13 cluding extensive, intensive or semi-intensive green
14 roofs, electrical wiring, plumbing systems, sewage
15 systems, lighting systems, or components of such
16 systems, windows, or doors, including security doors;

17 (2) repairing, replacing, or installing heating,
18 ventilation, air conditioning systems, or components
19 of such systems (including insulation), including in-
20 door air quality assessments;

21 (3) bringing public schools into compliance with
22 fire, health, and safety codes, including professional
23 installation of fire/life safety alarms, including mod-
24 ernizations, renovations, and repairs that ensure
25 that schools are prepared for emergencies, such as

1 improving building infrastructure to accommodate
2 security measures;

3 (4) modifications necessary to make public
4 school facilities accessible to comply with the Ameri-
5 cans with Disabilities Act of 1990 (42 U.S.C. 12101
6 et seq.) and section 504 of the Rehabilitation Act of
7 1973 (29 U.S.C. 794);

8 (5) abatement, removal, or interim controls of
9 asbestos, polychlorinated biphenyls, mold, mildew, or
10 lead-based paint hazards;

11 (6) measures designed to reduce or eliminate
12 human exposure to classroom noise and environ-
13 mental noise pollution;

14 (7) modernizations, renovations, or repairs nec-
15 essary to reduce the consumption of coal, electricity,
16 land, natural gas, oil, or water;

17 (8) upgrading or installing educational tech-
18 nology infrastructure to ensure that students have
19 access to up-to-date educational technology;

20 (9) modernization, renovation, or repair of
21 science and engineering laboratory facilities, librar-
22 ies, and career and technical education facilities, in-
23 cluding those related to energy efficiency and renew-
24 able energy, and improvements to building infra-

1 structure to accommodate bicycle and pedestrian ac-
2 cess;

3 (10) renewable energy generation and heating
4 systems, including solar, photovoltaic, wind, geo-
5 thermal, or biomass, including wood pellet, systems
6 or components of such systems;

7 (11) other modernization, renovation, or repair
8 of public school facilities to—

9 (A) improve teachers’ ability to teach and
10 students’ ability to learn;

11 (B) ensure the health and safety of stu-
12 dents and staff;

13 (C) make them more energy efficient; or

14 (D) reduce class size; and

15 (12) required environmental remediation related
16 to public school modernization, renovation, or repair
17 described in paragraphs (1) through (11).

18 **TITLE II—SUPPLEMENTAL**
19 **GRANTS FOR LOUISIANA, MIS-**
20 **SISSIPPI, AND ALABAMA**

21 **SEC. 201. PURPOSE.**

22 Grants under this title shall be for the purpose of
23 modernizing, renovating, repairing, or constructing public
24 school facilities, including, where applicable, early learning
25 facilities, based on their need for such improvements, to

1 be safe, healthy, high-performing, and up-to-date techno-
2 logically.

3 **SEC. 202. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**
4 **CIES.**

5 (a) IN GENERAL.—Of the amount appropriated to
6 carry out this title for each fiscal year pursuant to section
7 311(b), the Secretary shall allocate to local educational
8 agencies in Louisiana, Mississippi, and Alabama an
9 amount equal to the infrastructure damage inflicted on
10 public school facilities in each such district by Hurricane
11 Katrina or Hurricane Rita in 2005 relative to the total
12 of such infrastructure damage so inflicted in all such dis-
13 tricts, combined.

14 (b) DISTRIBUTION BY SECRETARY.—The Secretary
15 shall determine and distribute the allocations described in
16 subsection (a) not later than 60 days after an appropria-
17 tion of funds for this title is made.

18 **SEC. 203. ALLOWABLE USES OF FUNDS.**

19 A local educational agency receiving a grant under
20 this title shall use the grant for one or more of the activi-
21 ties described in section 103, except that an agency receiv-
22 ing a grant under this title also may use the grant for
23 the construction of new public school facilities.

TITLE III—GENERAL PROVISIONS

SEC. 301. IMPERMISSIBLE USES OF FUNDS.

No funds received under this Act may be used for—

(1) payment of maintenance costs;

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;

(3) improvement or construction of facilities the purpose of which is not the education of children, including central office administration or operations or logistical support facilities; or

(4) purchasing carbon offsets.

SEC. 302. SUPPLEMENT, NOT SUPPLANT.

A local educational agency receiving a grant under this Act shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available for modernization, renovation, repair, and construction of public school facilities.

SEC. 303. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this Act in determining the eligibility of any local educational agency in that State for State aid, or the

1 amount of State aid, with respect to free public education
2 of children.

3 **SEC. 304. MAINTENANCE OF EFFORT.**

4 (a) IN GENERAL.—A local educational agency may
5 receive a grant under this Act for any fiscal year only if
6 either the combined fiscal effort per student or the aggregate
7 expenditures of the agency and the State involved
8 with respect to the provision of free public education by
9 the agency for the preceding fiscal year was not less than
10 90 percent of the combined fiscal effort or aggregate expenditures
11 for the second preceding fiscal year.

12 (b) REDUCTION IN CASE OF FAILURE TO MEET
13 MAINTENANCE OF EFFORT REQUIREMENT.—

14 (1) IN GENERAL.—The State educational agency
15 shall reduce the amount of a local educational
16 agency's grant in any fiscal year in the exact proportion
17 by which a local educational agency fails to
18 meet the requirement of subsection (a) of this section
19 by falling below 90 percent of both the combined
20 fiscal effort per student and aggregate expenditures
21 (using the measure most favorable to the local
22 agency).

23 (2) SPECIAL RULE.—No such lesser amount
24 shall be used for computing the effort required

1 under subsection (a) of this section for subsequent
2 years.

3 (c) WAIVER.—The Secretary shall waive the require-
4 ments of this section if the Secretary determines that a
5 waiver would be equitable due to—

6 (1) exceptional or uncontrollable circumstances,
7 such as a natural disaster; or

8 (2) a precipitous decline in the financial re-
9 sources of the local educational agency.

10 **SEC. 305. SPECIAL RULE ON CONTRACTING.**

11 Each local educational agency receiving a grant under
12 this Act shall ensure that, if the agency carries out mod-
13 ernization, renovation, repair, or construction through a
14 contract, the process for any such contract ensures the
15 maximum number of qualified bidders, including local,
16 small, minority, and women- and veteran-owned busi-
17 nesses, through full and open competition.

18 **SEC. 306. USE OF AMERICAN IRON, STEEL, AND MANUFAC-**
19 **TURED GOODS.**

20 (a) IN GENERAL.—None of the funds appropriated
21 or otherwise made available by this Act may be used for
22 a project for the modernization, renovation, repair or con-
23 struction of a public school facility unless all of the iron,
24 steel, and manufactured goods used in the project are pro-
25 duced in the United States.

1 (b) EXCEPTIONS.—Subsection (a) shall not apply in
2 any case or category of cases in which the Secretary finds
3 that—

4 (1) applying subsection (a) would be incon-
5 sistent with the public interest;

6 (2) iron, steel, and the relevant manufactured
7 goods are not produced in the United States in suffi-
8 cient and reasonably available quantities and of a
9 satisfactory quality; or

10 (3) inclusion of iron, steel, and manufactured
11 goods produced in the United States will increase
12 the cost of the overall project by more than 25 per-
13 cent.

14 (c) PUBLICATION OF JUSTIFICATION.—If the Sec-
15 retary determines that it is necessary to waive the applica-
16 tion of subsection (a) based on a finding under subsection
17 (b), the Secretary shall publish in the Federal Register
18 a detailed written justification of the determination.

19 (d) CONSTRUCTION.—This section shall be applied in
20 a manner consistent with United States obligations under
21 international agreements.

22 **SEC. 307. LABOR STANDARDS.**

23 The grant programs under this Act are applicable
24 programs (as that term is defined in section 400 of the

1 General Education Provisions Act (20 U.S.C. 1221)) sub-
2 ject to section 439 of such Act (20 U.S.C. 1232b).

3 **SEC. 308. CHARTER SCHOOLS.**

4 A local educational agency receiving an allocation
5 under this section shall use an equitable portion of that
6 allocation for allowable activities benefitting charter
7 schools within its jurisdiction, as determined based on the
8 percentage of students from low-income families in the
9 schools of the agency who are enrolled in charter schools
10 and on the needs of those schools as determined by the
11 agency.

12 **SEC. 309. GREEN SCHOOLS.**

13 (a) IN GENERAL.—In a given fiscal year, a local edu-
14 cational agency shall use not less than the applicable per-
15 centage (described in subsection (b)) of funds received
16 under this Act for public school modernization, renovation,
17 repairs, or construction that are certified, verified, or con-
18 sistent with any applicable provisions of—

- 19 (1) the LEED Green Building Rating System;
20 (2) Energy Star;
21 (3) the CHPS Criteria;
22 (4) Green Globes; or
23 (5) an equivalent program adopted by the State
24 or another jurisdiction with authority over the local
25 educational agency.

1 (b) APPLICABLE PERCENTAGES.—The applicable
2 percentage described in subsection (a) is—

- 3 (1) in fiscal year 2010, 50 percent;
4 (2) in fiscal year 2011, 60 percent;
5 (3) in fiscal year 2012, 70 percent;
6 (4) in fiscal year 2013, 80 percent;
7 (5) in fiscal year 2014, 90 percent; and
8 (6) in fiscal year 2015, 100 percent.

9 (c) TECHNICAL ASSISTANCE.—The Secretary, in con-
10 sultation with the Secretary of Energy and the Adminis-
11 trator of the Environmental Protection Agency, shall pro-
12 vide outreach and technical assistance to States and local
13 educational agencies concerning the best practices in
14 school modernization, renovation, repair, and construc-
15 tion, including those related to student academic achieve-
16 ment, student and staff health, energy efficiency, and envi-
17 ronmental protection.

18 (d) YOUTHBUILD PROGRAMS.—The Secretary of
19 Education, in consultation with the Secretary of Labor,
20 shall work with recipients of funds under this section to
21 promote appropriate opportunities for participants in a
22 YouthBuild program (as defined in section 173A of the
23 Workforce Investment Act of 1998 (29 U.S.C. 2918a)) to
24 gain employment experience on modernization, renovation,
25 and repair projects funded under this section.

1 **SEC. 310. REPORTING.**

2 (a) **REPORTS BY LOCAL EDUCATIONAL AGENCIES.—**

3 Local educational agencies receiving a grant under this
4 Act shall annually compile a report describing the projects
5 for which such funds were used, including—

6 (1) the number of public schools in the agency,
7 including the number of charter schools;

8 (2) the total amount of funds received by the
9 local educational agency under this Act and the
10 amount of such funds expended, including the
11 amount expended for modernization, renovation, re-
12 pair, or construction of charter schools;

13 (3) the number of public schools in the agency
14 with a metro-centric locale code of 41, 42, or 43 as
15 determined by the National Center for Education
16 Statistics and the percentage of funds received by
17 the agency under title I or title II of this Act that
18 were used for projects at such schools;

19 (4) the number of public schools in the agency
20 that are eligible for schoolwide programs under sec-
21 tion 1114 of the Elementary and Secondary Edu-
22 cation Act of 1965 (20 U.S.C. 6314) and the per-
23 centage of funds received by the agency under title
24 I or title II of this Act that were used for projects
25 at such schools;

26 (5) for each project—

1 (A) the cost;

2 (B) the standard described in section
3 309(a) with which the use of the funds com-
4 plied or, if the use of funds did not comply with
5 a standard described in section 309(a), the rea-
6 son such funds were not able to be used in com-
7 pliance with such standards and the agency's
8 efforts to use such funds in an environmentally
9 sound manner;

10 (C) if flooring was installed, whether—

11 (i) it was low- or no-VOC (Volatile
12 Organic Compounds) flooring;

13 (ii) it was made from sustainable ma-
14 terials; and

15 (iii) use of flooring described in clause

16 (i) or (ii) was cost-effective; and

17 (D) any demonstrable or expected benefits
18 as a result of the project (such as energy sav-
19 ings, improved indoor environmental quality,
20 improved climate for teaching and learning,
21 etc.); and

22 (6) the total number and amount of contracts
23 awarded, and the number and amount of contracts
24 awarded to local, small, minority, women, and vet-
25 eran-owned businesses.

1 (b) AVAILABILITY OF REPORTS.—A local educational
2 agency shall—

3 (1) submit the report described in subsection
4 (a) to the State educational agency, which shall com-
5 pile such information and report it annually to the
6 Secretary; and

7 (2) make the report described in subsection (a)
8 publicly available, including on the agency’s website.

9 (c) REPORTS BY SECRETARY.—Not later than De-
10 cember 31 of each fiscal year, the Secretary shall submit
11 to the Committee on Education and Labor of the House
12 of Representatives and the Committee on Health, Edu-
13 cation, Labor, and Pensions of the Senate, and make
14 available on the Department of Education’s website, a re-
15 port on grants made under this Act, including the infor-
16 mation described in subsection (b)(1), the types of mod-
17 ernization, renovation, repair, and construction funded,
18 and the number of students impacted, including the num-
19 ber of students counted under section 1113(a)(5) of the
20 Elementary and Secondary Education Act of 1965 (20
21 U.S.C. 6313(a)(5)).

22 **SEC. 311. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) TITLE I.—To carry out title I, there are author-
24 ized to be appropriated \$6,400,000,000 for fiscal year

1 2010 and such sums as may be necessary for each of fiscal
2 years 2011 through 2015.

3 (b) TITLE II.—To carry out title II, there are author-
4 ized to be appropriated \$100,000,000 for each of fiscal
5 years 2010 through 2015.

6 **SEC. 312. SPECIAL RULES.**

7 Notwithstanding any other provision of this Act, none
8 of the funds authorized by this Act may be—

9 (1) used to employ workers in violation of sec-
10 tion 274A of the Immigration and Nationality Act
11 (8 U.S.C. 1324a); or

12 (2) distributed to a local educational agency
13 that does not have a policy that requires a criminal
14 background check on all employees of the agency.

○